

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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A.S. and M.S. individually and on behalf  
of A.S. a minor;

Plaintiffs,

**COMPLAINT**

-against-

Civil Case No. 24-cv-09518

CITY SCHOOL DISTRICT OF THE  
CITY OF NEW YORK dba THE NEW  
YORK CITY DEPARTMENT  
OF EDUCATION

Defendant.

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**I. INTRODUCTION**

A.S. and M.S. individually and on behalf of A.S., a minor (“Plaintiffs”), by and through their attorney, the Law Offices of Regina Skyer and Associates, L.L.P., respectfully move this Court for an award of attorney fees associated with their successful prosecution of an impartial hearing under the Individuals with Disabilities Education Act (“IDEA”), 20 U.S.C. § 1415(i)(3)(B). The Plaintiffs, by, as and for their Complaint against the Defendant, set forth and allege that:

**II. JURISDICTION AND VENUE**

1. Jurisdiction is predicated upon 28 U.S.C. § 1331, which provides the District Courts with original jurisdiction over all civil actions arising under the laws of the United States, and upon the fee-shifting provision of IDEA, 20 U.S.C. § 1415(i)(3)(A), which provides that the District Courts

of the United States shall have jurisdiction of actions brought under section 1415(i)(3) without regard to the amount in controversy.

2. Venue is predicated upon 28 U.S.C. § 1391(b)(1) based upon the residence of defendant.

### **III. PARTIES**

3. Plaintiffs reside in the County of New York, State of New York.

4. A.S. is a child with a disability as defined by IDEA, 20 U.S.C. § 1401(3)(A).

5. Plaintiffs A.S. and M.S. are the Parents of A.S. as defined by IDEA, 20 U.S.C. § 1401(23).

6. Defendant NEW YORK CITY DEPARTMENT OF EDUCATION is a local educational agency as defined by IDEA, 20 U.S.C. § 1401(19), and, as such, is obligated to provide educational and related programs and services to its students in compliance with the applicable federal and state statutes, regulations, and the U.S. Constitution, and is subject to the requirements of 20 U.S.C. § 1400 et seq., and the regulations promulgated thereunder.

### **IV. FACTUAL BACKGROUND**

7. On January 6, 2021, Plaintiffs A.S. and M.S. initiated an impartial due process hearing on behalf of their child A.S., alleging a denial of a free appropriate public education (“FAPE”) and seeking funding for tuition and services within the child’s unilateral placement school and transportation to that school.

8. This matter was assigned by Defendant’s Impartial Hearing Office, case number 205582.

9. On December 13, 2021, an impartial hearing officer (“IHO”) issued a Finding of Facts and Decision (“FOFD”) in favor of Plaintiffs, finding a denial of FAPE and awarding relief in the form of funding of tuition provided by the child’s unilateral placement school and transportation.

10. Defendant did not appeal this decision, and subsequently implemented the order.

### **VI. PLAINTIFFS’ CAUSE OF ACTION**

11. The Plaintiffs repeat, reiterate, and reallege each and every allegation set forth in paragraphs “1” through “10” of this Complaint with the same force and effect as if fully set forth herein.

12. Plaintiffs A.S. and M.S. initiated an impartial hearing on behalf of A.S.

13. Plaintiffs A.S. and M.S. prevailed at the impartial hearing by obtaining a finding of facts and decision from the IHO ordering the demanded relief.

14. Plaintiffs A.S. and M.S. having prevailed in the underlying proceedings, hereby demands reasonable attorneys’ fees and costs pursuant to 20 U.S.C. x 1415(i)(3).

**WHEREFORE**, Plaintiffs pray that the Court take jurisdiction of this Complaint, and:

- (1) Assume jurisdiction over this action;
- (2) Award to Plaintiff A.S. and M.S. the costs, expenses and attorneys’ fees for the administrative proceedings in the matter of M.B. pursuant to 20 U.S.C. § 1415;
- (3) Award to the plaintiffs the costs, expenses and attorneys’ fees of this action pursuant to 20 U.S.C. § 1415; and
- (4) Grant such other and further relief as the Court deems just and proper.

Dated: Brooklyn, New York  
December 12, 2024

Respectfully submitted,

s/ KERRY MCGRATH

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